



[7590-01-P]

**NUCLEAR REGULATORY COMMISSION**

**[EA-2014-144; NRC-2015-0110]**

**In the Matter of GE-Hitachi Nuclear Energy Americas LLC**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Confirmatory order; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing a confirmatory order to GE-Hitachi Nuclear Energy Americas LLC, confirming agreements reached on March 4, 2015. As part of the agreement, GE-Hitachi must comply with the security measures detailed in the Attachment to the Order and the materials control and accounting (MC&A) measures detailed in Section II of the Order; implement the security and MC&A measures for the duration of the SNM-960 license; submit an updated physical security plan for NRC review and approval within 120 days from the issuance of the Order; submit a descriptive program for MC&A for the material under the SNM-960 license for NRC review and approval within 60 days from the issuance of the Order; and provide written verification to the Director, Office of Nuclear Material Safety and Safeguards (NMSS), within 20 calendar days from the end of the calendar month after completing any of the measures. This Order is effective the date it is issued.

**DATES:** The confirmatory order was signed April 22, 2015.

**ADDRESSES:** Please refer to Docket ID NRC-2015-0110 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this action by the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC-2015-0110. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov). For questions about this Order, contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**  
You may access publicly available documents online in the ADAMS Public Documents collection at <http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852.

**FOR FURTHER INFORMATION CONTACT:** Breeda Reilly, telephone: 301-415-7553, e-mail [Breeda.Reilly@nrc.gov](mailto:Breeda.Reilly@nrc.gov), Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

**SUPPLEMENTARY INFORMATION:**

The text of the Order is attached.

Dated at Rockville, Maryland, this 22<sup>nd</sup> day of April, 2015.

For the Nuclear Regulatory Commission.

Marissa G. Bailey, Director,  
Division of Fuel Cycle Safety,  
Safeguards, and Environmental Review  
Office of Nuclear Material Safety  
and Safeguards.

**Attachment—CONFIRMATORY ORDER**

**UNITED STATES OF AMERICA**

**NUCLEAR REGULATORY COMMISSION**

**In the Matter of GE-Hitachi Nuclear Energy Americas LLC;**

**Vallecitos Nuclear Center, Sunol, California**

**[Docket No. 70-754; License No. SNM-960]**

**EA-2014-144**

**Confirmatory Order**

**I.**

GE-Hitachi Nuclear Energy Americas LLC (GEH or the licensee) is the holder of License No. SNM-960, issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Part 70 of Title 10 of the *Code of Federal Regulations* (10 CFR), “Domestic Licensing of Special Nuclear Material,” for the Vallecitos Nuclear Center (VNC). The license authorizes [Official Use Only (OUO) Information Redacted] special nuclear material (SNM) [OUO Redacted]. The license, issued on September 14, 1966, was most recently renewed on June 16, 2000, with an expiration date of June 30, 2010 (GEH is operating under timely renewal). [Safeguards Information (SGI) Redacted]

**II.**

[SGI Redacted] The NRC met with the licensee on June 25, 2014, to discuss methods to incorporate the security requirements in the Attachment to this Order into its license and physical security plan (PSP). The NRC again met with the licensee on October 24, 2014, to

discuss methods to incorporate the material control and accounting (MC&A) requirements into its license. At both times, the licensee expressed both the willingness and capability to work with the NRC to ensure that the material is adequately protected. Since then, the NRC and GEH have met multiple times to finalize this Confirmatory Order. As such, the NRC has issued this Confirmatory Order, agreed to by GEH, to address the hybrid nature of the facility and provide clear and inspectable security and MC&A requirements. Accordingly, before GEH makes any change in the amount, type, or makeup of the material [OUO Redacted] under the SNM-960 license, or the material is moved elsewhere onsite, GEH must notify the NRC so that the NRC can review the need for updated security or MC&A requirements. Based on that review, this Confirmatory Order may be amended or a new Confirmatory Order may be issued. The requirements in the Attachment to this Order will remain in effect until the NRC determines otherwise.

### III.

GEH agrees to implement the security measures detailed in the Attachment to this Order and the MC&A measures detailed in Section II of this Order under License No. SNM-960 to provide high assurance of public health and safety and the common defense and security.

On March 4, 2015, the Licensee consented to the issuance of this Order with commitments, as described in Section IV below. The Licensee further agreed in its April 9, 2015, letter that this Order is to be effective the date that this Order is signed and that it has waived its right to a hearing. Since the Licensee has agreed to implement the security measures detailed in the Attachment to this Order and the MC&A measures detailed in Section II of this Order and document them in their physical security plan and license, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

I find that the Licensee's commitments, as set forth in Section IV, are acceptable and necessary and conclude that with these commitments the public health and safety and common defense and security are highly assured. In view of the foregoing, I have determined that the public health and safety and the common defense and security require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Order shall be final 30 days from the date this Order is signed.

#### IV.

Accordingly, pursuant to Sections 51, 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 70, IT IS HEREBY ORDERED THAT LICENSE NO. SNM-960 IS MODIFIED AS FOLLOWS:

A. GEH shall comply with the security measures detailed in the Attachment to this Order and the MC&A measures detailed in Section II of this Order. The security and MC&A measures are required to be implemented for the duration of the SNM-960 license. If the Licensee expects to miss a completion date for any reason, the Licensee must contact the NRC to discuss compensatory measures that will be implemented. The sufficiency of such compensatory measures will be solely the determination of the NRC.

B. GEH shall submit an updated physical security plan that incorporates the security measures described in the Attachment to this Order for NRC review and approval within 120 days from the issuance of this Order.

C. GEH shall submit a descriptive program for MC&A for the material under License No. SNM-960 that incorporates the MC&A measures described in Section II of this Order for NRC review and approval within 60 days from the issuance of this Order.

D. GEH shall provide written verification to the Director, Office of Nuclear Material and Safety and Safeguards (NMSS), within 20 calendar days from the end of the calendar month after completing any of the measures described in the Attachment to this Order.

GEH's submissions that contain Safeguards Information (SGI) shall be properly marked, handled, and transmitted in accordance with 10 CFR 73.21 and 73.22. GEH's submissions that contain OUO Information shall be properly marked, handled, and transmitted. The Director of NMSS may, in writing, modify, relax, or rescind any of the above conditions upon demonstration by GEH of good cause.

## V.

This Order and its Attachment contain information up to the SGI designation, as defined in 10 CFR 73.2, and its disclosure to unauthorized individuals is prohibited by 10 CFR 73.21 and 10 CFR 73.22. Therefore, any redacted material will not be made available for public inspection in the NRC Public Document Room or electronically in the NRC's Agencywide Documents Access and Management System. Any person requesting to obtain a copy of this order or portions thereof will be required to demonstrate their trust and reliability through a Federal Bureau of Investigation background check and criminal history check, as well as demonstrate a "need to know" such information.

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by

this Order, other than the licensee, may submit an answer to this Order, and may request a hearing concerning the Order, within 30 days of its publication in the *Federal Register*. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, NMSS, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and include a statement of good cause for the extension.

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether this Order should be sustained.

If a person, other than the licensee, requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

In the absence of any request for a hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 days from the date that this Order is signed without further order or proceedings.

If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

## VI.

### **Electronic Submissions (E-Filing)**

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the



submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. System requirements for accessing the E-Submittal server are detailed in the NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based

submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Meta System

Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/ehd/>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the

adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Dated at Rockville, Maryland this 22<sup>nd</sup> day of April, 2015.

For the Nuclear Regulatory Commission.

Scott W. Moore, Acting Director,  
Office of Nuclear Material Safety  
and Safeguards.

**[FR Doc. 2015-12664 Filed: 5/26/2015 08:45 am; Publication Date: 5/27/2015]**